THE MYSORE IRRIGATION LEVY OF BETTERMENT CONTRIBUTION AND WATER RATE) ACT, 1957.

ARRANGEMENT OF SECTIONS

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MYSORE ACT No. 28 OF 1957

(*First published in the* Mysore Gazette *on the Thirty-first Day of October,* 1957.)

THE MYSORE IRRIGATION (LEVY OF BETTERMENT CONTRIBUTION AND WATER RATE) ACT, 1957.

(As amended by Acts 23 of 1961, 8 of 1964, 18 of 1965, 13 of 1966 and 16 of 1968.)

(*Received the assent of the Governor on the Twenty-fourth Day of October* 1957.)

AN ACT TO CONSOLIDATE AND AMEND THE LAWS PROVIDING FOR THE LEVY OF BETTERMENT CONTRIBUTION AND WATER RATE IN THE STATE OF MYSORE.

WHEREAS it is expedient to consolidate and amend the laws relating to the levy of betterment contribution and water rate in the State of Mysore;

BE it enacted by the Mysore State Legislature in the Eighth Year of the Republic of India as follows:—

1. *Short title and extent.*—(1) This Act may be called the Mysore Irrigation (Levy of Betterment Contribution and Water Rate) Act, 1957.

(2) It extends to the whole of the State of Mysore.

[1][(3) It shall come into force on such date as the Government may by a notification appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

[2][(*a*) 'Deputy Commissioner' means the Deputy Commissioner of a District or such other officer not below the rank of an Assistant Commissioner as the Government may appoint to discharge the functions of the Deputy Commissioner under this Act;]

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1. This Act has come into force on 1st September 1960.

2. Substituted by Act 23 of 1961.
(*Vide* Notification No. PWD 47 GIG 59, dated 20th August 1960).

[1][(*b*) Betterment Levy Officer, means such officer as the Government may appoint to be the Betterment Levy Officer in respect of any area or irrigation work;

(*ba*) 'contribution' means the tax payable as [2][betterment contribution] under Sections 3 and 4;

(*c*) 'drainage work' includes—

(i) channels, whether natural or artificial, for the discharge of waste or surplus water and all work connected with and auxiliary to such channels;

(ii) the escape channels from an irrigation work;

(iii) dams, weirs, embankments, sluice and groynes;

(iv) all works for the protection of lands from floods or from erosion, which are owned or controlled by the Government, but does not include works for the removal of sewage;

(*d*) 'Government' means the State Government;

(*e*) 'irrigation work' includes:—

(i) all canals, channels, tanks, wells, reservoirs, anicuts, bandharas, ponds, spring ponds, kuntas, talapariges and madugus used for the supply or storage of water, and all works, embankments and structures, installations, including the installation of a pumping set, supply and escape channels connected therewith or auxiliary thereto which are owned or controlled by the Government;

(ii) all such lakes and other natural collections of water or parts thereof as are situated on lands which are the property of the Government;

(iii) all natural waterways, rivers and streams or parts thereof;

(*f*) 'landholder' or 'holder' signifies the person in whom a right to hold land is vested, whether solely on his own account, or wholly or partly in trust for another person or for a class of persons or for the public and includes a mortgagee vested with a right to possession:

Provided that in respect of any land in the possession of a walawargadar, kayamgenidar, a permanent tenant or a mulgeni tenant in the South Kanara District, such walawar-

1. Substituted by Act 8 of 1964.
2. Substituted by Act 13 of 1966.

gadar, kayamgenidar, permanent tenant or mulgeni tenant, as the case may be, shall be deemed to be the landholder in respect of such land ;

[1] and [2][(*fa*) x x x x]

[2][(*fb*) x x x x]

[2][(*fc*) x x x x]

(*g*) 'notification' means a notification published in the Official Gazette ;

(*h*) 'prescribed' means prescribed by rules made under this Act ;

[1][(*ha*) 'prescribed officer' means the officer specified in rules made under this Act and different officers may be specified for different areas, irrigation works or purposes ;]

(*i*) 'work' means an irrigation or drainage work whether completed or not.

(2) [[3] * * * * *]

2. *Levy of betterment contribution.*—[4][(1) There shall be levied a tax called betterment contribution [5][in accordance with the provisions of this Act, from the land holder or the holder of any land which is benefited] by the construction, restoration, expansion or alteration of any work by the Government, whether after the commencement of this Act or at any time before such commencement, but not earlier than—

(i) the first January 1944 in the Mysore Area ;

(ii) the first January 1947 in the Madras Area ;

(iii) the first August 1947 in the Hyderabad Area ; and

(iv) the first January 1950 in the Bombay Area and the Coorg District.

Explanation I.—A land shall be deemed to be benefited notwithstanding that the benefit is not enjoyed, provided such non-enjoyment is due solely to action or inaction on the part of that person or persons interested in such land.

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1. Inserted by Act 8 of 1964.
2. Clauses (*fa*), (*fb*), (*fc*) omitted by Act 13 of 1966.
3. Omitted by Act 23 of 1961.
4. Substituted by Act 8 of 1964.
5. Substituted by Act 13 of 1966.

Explanation II.—A land shall not be deemed to be benefited merely by reason of the execution of ordinary repairs, and maintenance of an existing work wholly or partly at the expense of Government.

[1][*Explanation III.*—In this sub-section, the expression "Government" shall be deemed to include the authority established under Section 66 of the Andhra State Act, 1953 (Central Act 30 of 1953).

[1][(2) For the purpose of levy of betterment contribution, the prescribed officer shall, by notification, specify—

(i) the dates of commencement and completion of the construction, restoration, expansion or alteration of any irrigation work;

(ii) [2][* * * *]

(iii) [2][* * * *]

and different dates of commencement and completion of any irrigation work may be specified in respect of different lands benefited by the same irrigation work depending upon the dates on which water is made available to such lands.

(3) The Government may either *suo motu* or on application by any landholder affected by a notification issued under sub-section (2), if satisfied that there is any error in any such notification, direct modification of the notification on as it deems fit and the notification shall be modified accordingly by the prescribed officer.]

[3][4. *Amount of betterment contribution.*—(1) The amount of betterment contribution payable in respect of any land referred to in section 3 shall be an amount equal to one-half of the difference between the market value of such land before the date of commencement of the construction, restoration, expansion or alteration of the irrigation work and the market value after the date of completion of such construction, restoration, expansion or alteration:

Provided that the amount of betterment contribution payable in respect of any land shall not be more than [4five hundred rupees] per acre:

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1 Inserted by Act 8 of 1964.

2. Omitted by Act 13 of 1966.

3. Substituted by Act 13 of 1966.

4. Substituted by Act 16 of 1968.

Provided further that no betterment contribution shall be leviable in respect of any land,—

(i) which is unarable (Kharab); or

(ii) benefited by the construction, restoration,

expansion or alteration of a tank, well, reservoir, anicut, bandhara, pond, spring pond, kunta, talaparige or madugu which is not capable of irrigating more than one hundred acres of land :

Provided also that for purposes of this sub-section, the increase in the market value of the land consequent upon any improvement of the land made by the landholder shall be excluded.

(2) As soon as may be, after the publication of a notification under sub-section (2) of section 3 in respect of any irrigation work. the Betterment Levy Officer shall prepare a statement showing the lands under the irrigable command of the irrigation work in respect of which the betterment contribution in accordance with the provisions of sub-section (1) is payable, and the nature and extent of irrigability of the different lands.

(3) The statement so prepared along with a public notice shall be published in the village chavadi and the taluk office and in such other manner as may be prescribed. Such notice shall require the landholders of lands under the irrigable command of the irrigation work to appear before the Betterment Levy Officer either personally or by agent at a time and place therein mentioned (such time not being earlier than one month from the date of publication of the notice), and to state—

(*a*) their objections,—

(i) to the inclusion of the lands in the statement as lands under the irrigable command of the irrigation work ;

(ii) to the inclusion of the lands in the statement as lands of any specified nature and extent of irrigability ; and

(*b*) in respect of payment of betterment contributions, the basis on which they claim that the amount of betterment contribution has to be computed.

Such statement shall be made in writing and signed by the party or his agent.

(4) The Betterment Levy Officer shall also serve notice to the same effect on the landholder of such land or his agent authorised to receive service on his behalf, who resides within the revenue district in which the land is situated. In case any landholder resides elsewhere and has no such agent, the notice shall be sent to him by registered post.

(5) On the date fixed under sub-section (3) or on such other date to which an inquiry may be adjourned, the Betterment Levy Officer shall, after holding a formal inquiry in the manner provided by the Mysore Land Revenue Act, 1964, and after giving an opportunity of being heard to every person who has made a statement under sub-section (3), make an order specifying—

(*a*) the increase in value of the lands by the completion of the construction, restoration, expansion or alteration of the irrigation work ;

(*b*) the amount of betterment contribution payable in respect of the said lands ; and

(*c*) the date from which such betterment contribution shall be payable.

(6) The Government or any person aggrieved by an order made under sub-section (5) may, within sixty days from the date of the order, appeal to the Court of the Civil Judge having jurisdiction over the area in which the land is situated and the Court of the Civil Judge may pass such orders on the appeal as it may deem fit.

(7) An order passed by the Court of the Civil Judge on an appeal preferred to it under sub-section (6) and subject to the orders aforesaid of the Court of the Civil Judge, the order of the Betterment Levy Officer under sub-section (5) shall be final, and shall not be liable to be questioned in any court of law.][1]

5. *When contribution becomes payable.*—(1) [1][The contribution] shall become payable under this Act on a written notice of demand thereof issued by [2][the Betterment Levy Officer] being served on the landholder.

[5][Provided that no notice of demand shall be served on a landholder until an order made under sub-section (5) of section 4 becomes final ;

(2) For the avoidance of doubt, it is hereby declared that it shall not be necessary to serve notice on any person other than the landholder, who has an interest in the land or on successor-in-interest of the landholder or in respect of any instalment of the [1][contribution].

[3][(3) [4][* * * *]

1. Substituted bq Act 13 of 1966.
2. Substituted by Act 8 of 1964.
3. Inserted by Act 8 of 1964.
4. Sub-section (3) omitted by Act 13 of 1966.
5. Inserted by Act 13 of 1966.

6. *Mode of payment of contribution.*—(1) The landholder of any and, in respect of which any [1][contribution] is payable, shall pay it in the manner prescribed either by surrendering to the Government a portion of his land the value whereof is equal to the amount of [1][contribution] or in cash, or partly by surrendering land and partly in cash.

(2) Where the landholder chooses to pay the whole or part of the [[1]contribution] by surrendering land, the surrender shall be subject to the following conditions:—

(*a*) the value of the land offered for surrender shall, for the purpose of payment of contribution, be determined by the [2][Deputy Commissioner] in the prescribed manner;

(*b*) the owner of the land shall prove to the satisfaction of the [2][Deputy Commissioner] that such land is free from all encumbrances, the [2][Deputy Commissioner] shall notify the proposed surrender and invite objections in such manner and within such period as may be prescribed; if any objection is received and the [2][Deputy Commissioner] is satisfied that the land is not free from encumbrance, he shall refuse to accept the surrender and shall recover the contribution in cash; if no objection is received and the [2][Deputy Commissioner] is satisfied that the land is free from encumbrance, he shall by order in writing accept the surrender and after such acceptance, the land shall vest in the Government free from all encumbrances and the Government may dispose of it in such manner as it deems fit:

Provided that the [2][Deputy Commissioner] may on the ground of inaccessibility or inconvenient location of the land or such other grounds as may be prescribed refuse to accept the surrender.

(3) The Government may by general or special order direct that in respect of any work, or class of cases the contribution shall be payable only in cash and not by surrendering land.

(4) Where the contribution is payable in cash, it shall be payable in such number of annual instalments not exceeding twenty and at such time as may be prescribed:

Provided that if, on or before the date on which the first instalment is payable, or at any subsequent date within a period of two

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1. Substituted by Act 13 of 1966.
2. Substituted by Act 8 of 1964.

years from that date, the owner pays the entire contribution or that balance of contribution, as the case may be, he shall be entitled to a rebate of ten per cent of such contribution or balance of contribution, as the case may be:

Provided further that if the amount of contribution falls into arrears, interest shall be payable at the prescribed rate on the amount of such arrears.

7. *Contribution recoverable as arrears of land revenue.*—Contribution payable under this Act in respect of any land shall be deemed to be a revenue demand due upon the said land; and the land, its products and the building (owned by landholder) standing upon the land, shall be deemed to be the security for the contribution. When any instalment of the contribution payable in any year is not paid on the due date, the amount of the instalment shall be deemed to be an arrear of land revenue and the provisions of the law in force regulating the recovery of land revenue, shall apply to the recovery of the said arrear together with the interest due thereon, as it applies to the recovery of the land revenue due on that land.

8. *Payment of contribution by person having interest in land.*—Any person having interest in a land may, notwithstanding that he is not the landholder of such land, pay the contribution payable by the holder in respect of such land and shall, if such person pays the entire contribution within a period of two years from the date on which the landholder becomes liable to pay the contribution, be entitled to a rebate of ten per cent.

9. *Right of reimbursement in respect of contribution.*—Where the landholder (not being in the South Kanara District, a walawargadar, a kayamgenidar, a permanent tenant or a mulgeni tenant) liable to pay contribution under this Act is not the owner of the land or is a co-owner of the land, nothing in this Act shall be deemed to affect his right to reimbursement from the owner or to recover proportionate part from the co-owner, as the case may be.

10. *Levy of water rate.*—(1) Whenever—

(*a*) [[1] .. .. ;]

(*b*) [2][water is supplied, made available or used for purpose of irrigation or any other purpose] from any work belonging to, or constructed by, or on behalf of the Government; and

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1. Omitted by Act 18 of 1965.
2. Substituted by Act 8 of 1964.

(*c*) water from any such work, by direct flow or percolation or by indirect flow, percolation or drainage from or through adjoining land irrigates any land under cultivation or flows into a reservoir and thereafter, by direct flow or percolation or by indirect flow, percolation or drainage from or through adjoining land irrigates any land under cultivation and, in the opinion of teh [1][Deputy Commissioner]such irrigation is beneficial to and sufficient for the requirements of crop on such land.

[2][(*d*) water supplied or made available to the Government by the authority established under Section 66 of the Andhra State Act, 1953, is supplied, made available or used for purposes of irrigation or any other purpose,]

the Government shall be entitled to levy a separate charge for such water hereinafter referred to as water rate and [3][the Government may prescribe the rates at which such water rates shall be levied, which may be,—

(i) different in respect of water supplied, made available or used for different purposes ;

[4][(ii) different in respect of water supplied, made available or used from different irrigation works, and when water is supplied, made available or used for irrigation of any land, with or without reference to the crop or crops grown or which may be grown on such land ;]

(iii) in lieu of water rate, if any, payable under any other law ;

and the manner in which and the authority by which the amount of water rate levied shall be determined.]

(2) [5]

(3) The amount of water rate shall be recoverable in the same manner as arrears of land revenue due on the land.

[6][10-A. *Application of this Act to the Tungabhadra Project.*— The provisions of this Act relating to the levy of water rate shall be

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1. Substituted by Act 23 of 1961.
2. Inserted by Act 8 of 1964.
3. Substituted by Act 23 of 1961.
4. Substituted by Act 18 of 1965.
5. Sub-section (2) omitted by Act 8 of 1964.
6. Added by Act 23 of 1961.

applicable in respect of any water stored, consumed, distributed or sold by the authority established under Section 66 of the Andhra State Act, 1953 (Central Act 30 of 1953):

Provided that no rule or order for the fixation of the water rate and other incidents in respect of such water rate shall be made except with the previous consent of the President of India.]

11. *Power to make rules.*—(1) The Government may subject to the condition of previous publication, by notification make rules to carry out the purposes of this Act, [1][and such rules may be general for all irrigation works or may be special for one or more irrigation works, as may be specified in such rules].

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide—

(*a*) for the delegation of powers of the Government to such authority or authorities as may be notified;

(*b*) for the provision of such appeals and revision as may be found necessary in respect of the orders passed by any authority to whom powers may be so delegated; and

(*c*) for all matters expressly required or allowed by this Act to be prescribed.

[2][(3) A rule made under this Act may be made with retrospective effect and when such a rule is made the reason for making the rule shall be specified in a statement laid before both Houses of the State Legislature. Subject to any modification made under sub-section (4), every rule made under this Act shall have effect as if enacted in this Act.

(4) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the sessions immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

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1. Inserted by Act 23 of 1961.
2. Substituted by Act 8 of 1964.

12. *Repeal and savings.*—Chapter VI of the Mysore Irrigation Act, 1932 (Mysore Act 1 of 1932) ; Section 53 of the Mysore Land Revenue Code, 1888 (Mysore Act IV of 1888); Section 55 of the Bombay Land Revenue Code, 1879 (Bombay Act V of 1879) ; Section 53 of the Hyderabad Land Revenue Act, 1317F. (Hyderabad Act VIII of 1317 Fasli): Sections 44, 48, 48-A, 49, 50, 51, 52, 53, 54, 55. 56, 56-A, 56-B, 56-C, 56-D, 56-E and 56-F of the Bombay Irrigation Act, 1879 (Bombay Act VII of 1879) ; the Madras Irrigation (Levy of Betterment Contribution) Act, 1955 (Madras Act III of 1955) ; the Madras Irrigation Cess Act, 1865 (Madras Act VII of 1865) ; the Hyderabad Irrigation (Betterment Contribution and Inclusion Fees) Act, 1952 (Hyderabd Act V of 1952) ; and the Coorg Irrigation Cess Act, 1943 (Coorg Act IV of 1943) are hereby repealed :

Provided that such repeal shall not affect—

(i) the previous operation of the said provisions or anything duly done or suffered thereunder ; or

(ii) any right, privilege, obligation or liability acquired, accrued or incurred under the said enactments ; or

(iii) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability or forfeiture as aforesaid ; and any such investigation, legal proceedings or remedy may be instituted, continued or enforced, and any such forfeiture may be imposed as if this Act had not been passed :

Provided further that the provisions of this Act relating to levy of betterment contribution shall not be applicable to lands in respect of which contribution or betterment charges have already been levied under any repealed enactment and such contribution or betterment charges shall continue to be collected as if this Act had not been passed :

Provided also that the water rate, water cess or irrigation cess levied in respect of any land under any repealed enactment shall continue to be levied until water rates are levied in accordance with the provisions of this Act.